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Board of Vocational Nursing
and Psychiatric Technicians

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8 **BEFORE THE**
9 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. VN-2010-4875

12 **REBEKAH LEANNE SIMMERS**
13 **5889 Oliver Road, Apt. 1**
Paradise, CA 95969

ACCUSATION

14 **Vocational Nurse License No. VN 160888**

15 Respondent.

16
17 Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Accusation solely in her official capacity as the Executive
20 Officer of the Board of Vocational Nursing and Psychiatric Technicians ("Board"), Department
21 of Consumer Affairs.

22 2. On or about January 29, 1993, the Board issued Vocational Nurse License Number
23 VN 160888 to Rebekah Leanne Simmers ("Respondent"). The license was in full force and
24 effect at all times relevant to the charges brought herein and will expire on September 30, 2012,
25 unless renewed.

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4. Code section 118(b) provides, in pertinent part, that the expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under Code section 2892.1, the Board may renew an expired license at any time within four years after the expiration.

The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

(f) Conviction of a crime substantially related to the qualifications, functions, and duties of a licensed vocational nurse, in which event the record of the conviction shall be conclusive evidence of the conviction.

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(b) Use any controlled substance as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public, or to the extent that the use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving possession of any narcotic or dangerous drug, or the prescription, consumption, or self administration of any of the substances described in subdivisions (a) and (b) of this section, in which event the record of the conviction is conclusive evidence thereof.

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7. Code section 492 states, in pertinent part:

Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol or drug problem assessment program under Article 5 (commencing with Section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest.

COST RECOVERY

8. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Conviction of Crimes)

9. Respondent is subject to discipline pursuant to Code section 2878(f), in that Respondent has been convicted of the following crimes that are substantially related to the qualifications, functions, or duties of a vocational nurse:

a. On or about December 13, 2002, in the case of *People vs. Rebekah Leanne Simmers*, (Super. Ct. Butte County, 2002, Case No. NCR94949), Respondent was convicted by the court on her plea of no contest of violating Vehicle Code sections 23103 and 23103.5 (reckless driving involving alcohol or drugs, or both), a misdemeanor.

b. On or about January 7, 2003, in the case of *People v. Rebekah Leanne Simmers*, (Super. Ct. Plumas County, 2002, Case No. 02-29592), Respondent was convicted by the Court on her plea of no contest of violating Vehicle Code section 23152(b) (driving a motor vehicle with a blood alcohol level of .08% or higher), a misdemeanor, with a prior conviction of the same, set forth above in subdivision (a), and Vehicle Code section 14601.5(a) (driving a motor vehicle when that privilege was suspended or revoked for refusing a chemical test or with excessive blood alcohol), a misdemeanor.

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1 c. On or about March 14, 2005, in the case of *People v. Rebekah Leanne Simmers*,
2 (Super. Ct. Butte County, 2005, Case No. SCR44771), Respondent was convicted by the Court on
3 her plea of nolo contendere of violating Health and Safety Code section 11550(a) (under the
4 influence of controlled substances), a misdemeanor, and Health and Safety Code section 11364
5 (possession of a smoking device), a misdemeanor.

6 d. On or about May 10, 2005, in the case of *People vs. Rebekah Leanne Simmers*,
7 (Super. Ct. Butte County, 2005, Case No. SCR48489), Respondent was convicted by the court on
8 her plea of guilty of violating Vehicle Code sections 23103 and 23103.5 (reckless driving
9 involving alcohol or drugs, or both), a misdemeanor.

10 e. On or about March 10, 2011, in the Superior Court, County of Butte, California, in
11 the matter entitled *People vs. Rebekah Simmers*, 2011, Case No. CM032788, Respondent was
12 convicted by the court of a violation of Health and Safety Code section 11377(a) (possession of a
13 controlled substance, to wit, Methylphenidate), a felony. The circumstances of the crime were
14 that on or about September 24, 2010, Respondent unlawfully possessed Methylphenidate, a
15 controlled substance.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Conviction of Crimes Involving Alcohol and/or Controlled Substances)**

18 10. Respondent is subject to discipline pursuant to Code section 2878(a), on the grounds
19 of unprofessional conduct, as defined by Code section 2878.5(c), in that Respondent has been
20 convicted of crimes involving the consumption of alcohol and possession of a controlled
21 substance, as more particularly set forth above in paragraph 9.

22 **THIRD CAUSE FOR DISCIPLINE**

23 **(Use of Alcohol or Controlled Substances to an Extent or in a**
24 **Manner Dangerous or Injurious)**

25 11. Respondent is subject to discipline pursuant to Code section 2878(a), on the
26 grounds of unprofessional conduct, as defined by Code section 2878.5(b), in that Respondent
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1 used controlled substances and/or alcohol to an extent or in a manner dangerous or injurious to
2 herself or others, as more particularly set forth above in paragraph 9.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Possession of a Controlled Substance)**

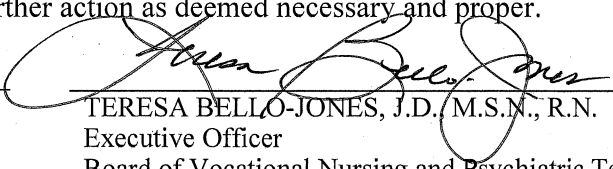
5 12. Respondent is subject to discipline pursuant to Code section 2878(a), on the grounds
6 of unprofessional conduct, as defined in Code section 2878.5(a), in that Respondent possessed a
7 controlled substance, in violation of Code section 4060, as set forth above in paragraph 9,
8 subdivision (e).

9 **PRAYER**

10 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians
12 issue a decision:

- 13 1. Revoking or suspending Vocational Nurse License Number VN 160888, issued to
14 Rebekah Leanne Simmers;
- 15 2. Ordering Rebekah Leanne Simmers to pay the Board of Vocational Nursing and
16 Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case,
17 pursuant to Business and Professions Code section 125.3; and,
- 18 3. Taking such other and further action as deemed necessary and proper.

19 DATED: **NOV 05 2012**


TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant